

REMARKS

Claims 1-47 are pending in the application. Claims 17, 34, 36, 40 and 46 were amended in the Amendment filed on January 24, 2002. It is believed that the January 24, 2002 Amendment complied with 37 CFR 1.173(b), except the marked up copy of the claims in the Amendment did not set forth the proper status of all patent claims and of all the added claims. In addition, the Amendment was not accompanied by an explanation of the support for the amendments in the disclosure of the patent.

Support for the amendment to claim 17 can be found at least in Figure 4 and column 4, lines 53-55 of the patent specification. Support for the amendment to claim 34 can be found in at least Figures 1-4 and column 3, line 50 through column 4, line 59 of the patent specification. Support for the amendment to claim 36 can be found in at least Figure 4 and column 4, lines 53-55 of the patent specification and in column 6, lines 14-26 of the patent specification. Support for the amendment to claim 40 can be found in at least Figure 4 and column 4, lines 53-55 of the patent specification, in column 6, lines 14-26, column 4, lines 15-22. Support for the amendment to claim 46 can be found in at least Figures 1-4 and at column 3, line 50 through column 4 of the patent specification.

It is believed the Amendment submitted on January 24, 2002 otherwise complied with the requirements of 37 CFR 1.173(b), and this supplemental amendment corrects any deficiencies in that amendment.

Enclosed for filing please find a Declaration of Geoffrey Trigger with attachments, a Declaration of Scott S. Servilla with attachments, a Submission of Executed Declaration Under 37 C.F.R. §1.47 (a), a Petition Pursuant to Rules 47 (a), 64, and 175, and a Supplemental Declaration of Charles A. Finn

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and Scott Sherman Pursuant to 37 C.F.R. §1.63, 1.171, and 1.175 (a) in connection with the above-identified application

It is believed that all of the objections set forth in the Official Action have been fully addressed, favorable reconsideration and allowance is earnestly solicited. If allowance of this application may be expedited by resolution of simple issues through a telephone conference, the Examiner is welcome to call the undersigned.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: July 10, 2003

Respectfully submitted,

By SSSla

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MARKED UP COPY OF THE AMENDED CLAIMS

17. (amended) A spinal rod coupler assembly comprising:

a coupler member having first, second, and third openings, the first opening dimensioned to slidably receive a spinal rod and fully surround a portion thereof and the second opening dimensioned to receive a locking fastener to retain the spinal rod within a coupler member; and

a fastener receiving member having an opening to receive a bone fastener, the fastener receiving member rotatably and slidably mounted with respect to the coupler member to adjust the position of the fastener, the fastener receiving member being mountable in the third opening of the coupler member.

34. (amended) A spinal rod coupler assembly comprising:

a coupler member having first, second, and third openings, the first opening dimensioned to slidably receive a spinal rod, and the second opening dimensioned to receive a locking fastener to retain the spinal rod within the coupler member, a portion of the coupler opposite the second opening being closed;

a fastener receiving member having an opening to receive a bone fastener, the fastener receiving member rotatably and slidably mounted with respect to the coupler member to adjust the position of the fastener, the fastener receiving member being mountable in the third opening of the coupler member, [further comprising and]

and an insert interposed between the spinal rod and the fastener receiving member.

36. (amended) A spinal rod coupler comprising:

a first opening dimensioned to slidably receive and fully surround a portion of a spinal rod and having a first longitudinal axis extending therethrough;

a second opening dimensioned to receive a locking fastener and having a second longitudinal axis extending therethrough transverse to the first longitudinal axis; and

a third opening dimensioned to slidably and rotatably receive an elongated connector to mount a bone fastener, the third opening having a third longitudinal axis extending therethrough transverse to the first longitudinal axis and the second longitudinal axis.

40. (amended) A spinal rod coupler assembly comprising:

a coupler having a first opening to receive a spinal rod and fully surround a portion thereof;

a connecting member having a longitudinal axis, the connecting member extending from the coupler and rotatable with respect to the coupler; [and]

a bone fastener positioned within the connecting member, wherein movement of the connecting member with respect to the coupler adjusts the position of the bone fastener; and

a locking member for securing the spinal rod the locking member extending at an angle to the longitudinal axis of the connecting member.

46. (amended) [The]A spinal rod coupler assembly [of claim 40 further]comprising:

a coupler having a first opening to receive a spinal rod;

a connecting member extending from the coupler;

a bone fastener positioned within the connecting member, wherein movement of the connecting member with respect to the coupler adjusts the position of the bone fastener; and

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[further comprising]an insert mounted within the coupler
and interposed between the spinal rod and connecting member.